

A
FULLER ANSWER
TO
A TREATISE

Written by Doctor FERNE,

ENTITLED

The Resolving of Conscience upon this Question,

Whether upon this Supposition, or Case (The King will not defend,
but is bent to subvert Religion, Lawes and Liberties) Subjects may
with good Conscience make resistance.

Wherein the Originall frame, and Funda-
mentalls of this Government of *England*, Together with those
two Texts of Scripture are sufficiently cleared. viz.

ROM. 13. 1.

*Let every soule be subject unto the higher powers: for there is no power but of God,
The powers that be, are ordained of God.*

1 PET. 2. 13.

*Submit your selves unto every Ordinance of man for the Lords sake, whether it be
to the King as Supream.*

Done by another Authour.

And by him revised and enlarged by occasion of some late Pamphlets
Complaining in the Name of the City against the Parliament.

L O N D O N,

Printed for *John Bartlet*, and are to be sold at the Signe of the Gilt-
Cup in *Pauls Church-yard*, neare to *Sustins Gate*, 164.

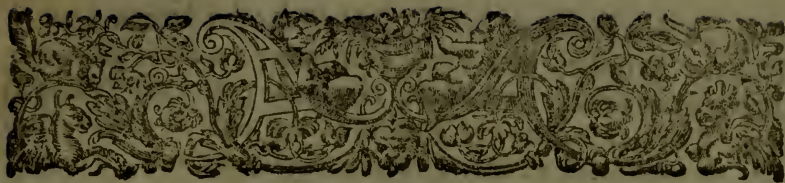
special
collections



DOUGLAS
LIBRARY

queen's university
at kingston

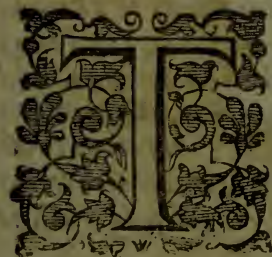
kingston ontario canada



A
PREMONITION

To the Reader, concerning the Author,
and Subject of the *TREATISE*
here Answered.

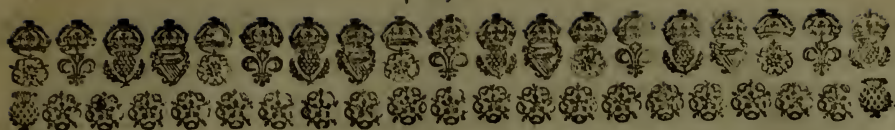
Reader,



His Treatise here answered, in the Title, or Beake of it, seemes with the Dove to bring an Olive branch of safety to the tossed Arke of Conscience; but doe but looke downe, and thou shalt see the Vultures tallons, carrying a firebrand, and hovering over the dying Carcasse of the State for a Prey: Be not like a Larke, dared into the net by a painted Hobby of pretended Conscience: Conscience is that new name which no man knowes but he that hath it, No man can write well of it, but he must (with Ezekiel) eate the Roll, he must be Subject as well as Author, the experient herein are only eloquent, when (as the Apostle speaks) a man is able to comfort others with the same comfort wherewith he himselfe hath been comforted of God. Conscience is a diamond, and will be wrought on by nothing but dust of Diamond, such as contrition hath grownd it to: Otherwise while men carry this Subject, but as birds doe meate to their

Zech. 11. 17.

young, in their beakes, not breasts, and doe but (as Seneca speaks) Discere Scholæ, non vitæ, hammering, and but suborning Learning into doubts, not deeds, they may (with this Treatise) write Cases (i.) covers of conscience, but resolve none: How like the motion of a Puppet, the language of a Parrot, is the best discourse in this subject of conscience of the not interested man? It would make Democritus burst againe with laughter, to see how like an Asse eating Thistles, loath to swallow them for feare of the prickles, a Doctor that is, or 'tis like would be a Court Chaplaine, a pluralist, to mumble this holy Thistle of conscience, lest he should swallow it, prickles and all: If such a one see nothing aright in this subject, no marvell: Zachary will tell him the reason, he is an Idoll-Shepherd that leaves the Flocke, and then the sword shall be upon his right eye, and it shall be utterly darkened, and the sword shall be (he sayes) upon his right hand too; it is very likely this Prophecie is become the history of these times, wherein the hands of such as have been questionlesse deepest in the present sword: No marvell then (I say) if such a one see nothing but with the left eye of prejudice, especially in the actions of a Parliament, that hath so neerly touched him in his free-hold, Voted away his Archdeaconry, it may be one or two of his Benefices, and which is worst of all, all his hopes of having more. Quis tulerit Gracchos?---- Quis tam ferreus ut teneat se? But to the Treatise, this only by the way of caution, when you heare an Archdeacon talke of conscience, for the most part the Byas is not in the wood, it is but clapt on, to reach some tickler marke with.



An Answer to a TREATISE Entituled
The Resolving of Conscience upon this Question,
 Whether upon such a supposition, or Case as is now usual-
 ly made (The King will not discharge His trust, &c.)

BLowning aside the *Magistery* of the Title, *Author*, *Style* of this *Treatise*, as but the *pin-dust* of it, that *gilds* but intercepts the *Letter*: I find the substance of it to be a groundlesse *supposition* of the Parliaments taking up Armes, upon a bare *supposition* of the Kings meere *intention* to subvert Lawes and Liberties; for so we see the question it selfe is proposed: *Whether upon such a supposition?---The King Will not, &c.*

Here I confesse we have much of the *Chaire* upon the *resolving* part, but as much beside the *Cushion* on the *supposing* part; for who ever maintained that the Parliament might upon such a bare *supposition* of such a meere *intention* of the Kings, take up Armes, the actuall *invasion* of Liberties, *invitation* and *detention* of Delinquents from tryall by Law, to be a party in Armes against the Parliament, thereby to *dissolve*, or at least to *remove* it without the *Houses* consent, flatly against a *Law* of this very Parliament, *Importation* of *strange Armes* and *Souldiers*, *illegal Commissions* to *employ* them, &c. all voted in Parliament to have been done, amount to more then *suppositions* of meere *intentions*; but to passe by this, (as the property of the *Ferne*, which uses to have a broad top, but a narrow *roote*) the thing that he prosecutes, though not proposes, is, that
 1. *No supposition, or case can authorize Subjects to take up Armes against their King*; and then 2. *That such a case as the present Parliament pretends to have, is both not*; and 3. *Therefore no Subject can take up Armes with good conscience.*

The best way therefore of Answer, will be to cleare these three Propositions.

1. A *Parliament of England* may with good *conscience*, in *defence* of *King*, *Lawes* and *Government* establisht, when *imminently endangered*, especially when *actually invaded*, take up Armes without, and against the *Kings personall Com-mands*, if he *refuse*.

2. The finall and casting *result* of the *States judgement* concerning what those *Laws*, *dangers*, and *meanes* of *prevention* are, resides in the *two Houses* of *Parliament*

3. In this small *Resolution* of the *States Judgement* the *People* are to *rest*, and in *obedience* thereto may with good *conscience*, in *defence* of the *King, Laws* and *Government*, *beare* and *use Armes*.

These made good, the answer to his severall Sections will be very easie.

If any one thinke much I doe not answer the Doctor in his three proposed *Resolves* upon his *Question*; I answer I am enforced to answer what he would say, for (to say truth) *resolving*, as he doth, upon a *Question* that never came in *Question*; That no *conscience* upon such a *supposition* as was never made, can have safe ground for such a *resistance* as was never undertaken, he sayes (upon the matter) nothing at all. Only sets up an *Army* ingaged in a quarrell of his owne fancy, a *Mammet* of his owne dressing, which he cudgels into the *Clouts* he himselve hath put it in: He *disputes* with his owne corner *Cap*, and is his owne *John a Nokes*, and *John a Style* both: much what as *Mountebankes* use to doe, who make *wounds* onely, the better to sell their *playsters*. And to answer him word by word, as he goes along in the *Treatise* (wherein for the more gravity and (it may be) the more to amuse and loose the Reader, he makes the *Nominative* case in every sentence, to give the *Verbe* twelve-score at starting) would swell the *Answer* into too great an affliction upon these dispatchfull and urgent times. How many *weekes* soever the Doctor hath been about the *Treatise*, it is well known to many, the answer cost not many *houres* the doing.

Propos. 1. A *Parliament* of *England* may with good *conscience* in *defence* of *King, Laws* and *Government* established, when *imminently endangered*, especially when *actually invaded*, take up *Armes* without, and against the *Kings personall Commands*, if he *refuse*.

Before we judge of what a *Parliament* can doe in *England*, it will be needfull to know what kind of *Government* this of *Englands* is: We are therefore to know, that *Englands* is not a simply *subordinative*, and *absolute*, but a *Coordinative*, and *mixt Monarchy*; This *mixture*, or *Coordination* is in the very *Supremacy* of power it selfe, other wise the *Monarchy* were not *mixt*: all *Monarchies* have a *mixture*, or composition of *subordinate*, and under-officers in them, but here the *Monarchy*, or highest power is it selfe compounded of 3 *Coordinate Estates*, a *King*, and two *Houses* of *Parliament*; unto this *mixt* power no *subordinate* authority may in any case make *resistance*. The rule holds still, *Subordinata non pugnans*, *subordinates* may not strive; but in this our *mixt* highest power, there is no *subordination*, but a *Coordination*: and here the other rule holds as true, *Coordinata invicem suppleant*, *Coordinates* supply each other. This *mixture* the *Kings Majesty* himselve is often pleased in his *Declarations* to applaud, as by a *mutuall counterpoise* each to other, sweetning and alaying whatever is harsh in either. The *Treatiser* himselve doth no lesse, calling it, *That excellent temper of the three Estates in Parliament*, confessing them (there) to be the *Fundamentals* of this *Government*, and if *Fundamentals*, what *subordinations* (I pray) can there be in them? *Fundamentals* admit not of *higher* and *lower*, all foundations are principall alike: And I cannot but wonder that that

position of the *Observer*, the King is *Universis minor*, should be by this *Resolver* and others so much exploded, for if the *temper* (as he speaks) of this *Señt. 6.* Government be of three *Estates*, he need not buy the *Almanack* (he speaks of) to reckon by, that one is lesse then three.

But you'll say, what? is not the *Parliament* subordinate to the King? are they not all *Subiects*? I answer; The *Parliament* cannot be said properly to be a *Subiect*, because the King is a part, and so hee should be *subiect* to himselfe: no, nor are the two *Houses* without him *Subiects*; every member *seorsim*, taken severally, is a *Subiect*, but all *collectim* in their *Houses* are not, nay, *Bracton* the great Lawyer is so bold, as to say, *The King hath above him, besides God, the Law, whereby he is made King, likewise his Court of Earles and Barons, &c.* But we need not goe so high, it will serve our turne, if the *Houses* be in this mixture or *temper* of Government, not subordinate or *subiect*, then, if they do as *Coordinates* should, supply each others failings, no highest power is resisted.

Rex habet superiorem, Deum scilicet, item legem per quam factus est Rex, item Curiam suam, viz. Comites, Barones, &c. fol. 34 a.

But you'll say, how can they which are every one apart *Subiects*, not be all *Subiects* in their *Houses*? Doth the Kings *Writ* *unsubiect* them? No, it was the consent of both King and people, in the first coalition or constitution of the Government, that makes them in their severall *Houses* coordinate with his Majesty, not subordinate to him, how else were the Monarchy mixt more then that of *Turkie*? But doth not the Kings *Writ* make them a *Parliament*? It doth ordinarily, in *actu exercitio*, but in *actu signato*, it is the Constitution of the Government designs them to it, and accordingly provides for it in an annual, or now triennuall vicissitude; where note by the way, that whereas it is often urged, that they are but his *Councell*, to be called by him; it is true, that office is ordinarily bestrusted to him, but they are by the first constitution not to be elected by him, but assigned to him, not assumed (as *Moses* his under-officers, of *Jethro's* advice) not only the Kings, but the Kingdomes *Councell*, elected by it, not him, and have not only a power of consulting, but of consenting: the *Writ* for the House of Commons is *ad faciendum, & consentiendum*, however, we know they must consent before it can be a *Law*, whereby it sufficiently appeares, they are a coordinative part in the Monarchy, or highest principle of power, in as much as they beare a consenting share in the highest office of it, the making of *Lawes*.

* Ad tutelam legis subdito- run -- Rex talis erectus est. For. Fol. 32. And againe, Ad hanc potestatem a populo effluxam ipse habet, quo non licet ei potestatem alia populo suo dominari. Fol. 25. b.

But you'll say, can there be more then one highest? No, there is but one, but that one is a mixt one, else the Monarchy were not mixt.

But you'll say, how doth it appeare that the constitution of this government is such? I answer (besides his Majesties above mentioned confession, and the Houses share in the highest office of government, that of making *Lawes*) by the mutuall Oathes the King and people are to take to maintaine the *Lawes* that have so constituted it. * *Fortescue* is herein full and home, (i) The King is to governe his people by no other then that kind of power which flows to him from their consent, and that is a politicall not regall power. Now he that knowes any thing

And yet againe, Principatus namq. natus est repali: sed & politico: suo populo dominatur.

thing of Greek knowes the word *Politickall* implyes a *mixt Principat*, specially when oppos'd to *regall*.

But you'l say (with the *Treatiser*) the *King* is *King* before he takes his *Oath*, 'Tis true, but he is *King* but upon the same *trust* which his *Predecessours* (in whose right he followes) *swore* to ; and the *Oath* which the *Law* provides for the *King* and his *Predecessours* to take, *virtually* binds him even before he take it, while he holds the *Kingdome*, but in the right of *succession*, for the same *Law* that conveyes upon him the *Crown* in right of *succession*, charges upon him the taking of the same *Oath* his *Predecessours* have done, from whom by that *Law* he claimes the *Crowne* ; in that respect it is, that the *King* is said in *Law* not to die, but *demise*, because they all still live in him.

But you'l say, 'Tis hard to apprehend how the same men that are all *Subiects* severally, should in their houses not be *subiect*, but *coordinate* with the *King* ? It may appeare easily thus: a *Father* and a *Sonne* are by a deed of *enfieiment* joyntly entrusted with *certaine Lands* to uses, the *Sonne* is still *subordinate* to the *Father* as *Sonne* ; but as *Feoffee*, in the *trust*, he is not *subiect* but *coordinate* and joynt with him. And therefore it is not a little to be wondered at, that so many especially of the *Lords*, who are *Conciliary nati*, borne *Councellers* to the *State*, in whom their shares both of *trust* and *interest* in this *Supremacy* of power in *Parliament*, the very *constitution* it selfe of the government hath *invested* their very *blood* with, should be so much wanting to *themselves*, their *posterities* and it, as upon a bare *whistle* to desert that *trust* and *interest* in the government, which their *Fathers* with so much of their *care* convey'd upon them, and so much of their *bloud* prefer'd for them ; Their very stile *Comites* and *Peeres* imply in *Parliament* a *coordinative Society* with his *Majesty* in the government ; they are in *Parliament* his *Comites*, his *Peers*. I know 'tis strongly alleadged that they could not stay with *safety* for *rouls* and *tumults* : I must confesse 'tis much to be wish'd there had been none; but the *Houses* alleadge againe, they hindred them what they could, and there was no *Law* to punish them, specially comming but as *Petitioners*, and that his *Majesties* feare was so little from them, that the morrow after the greatest of them, he went into *London* with an ordinary retinue ; and that most of the *Lords* departed not, till long after all was quiet ; what had become of *Israel*, if *Moses* had left his *charge* upon every *tumult* ? But of this but by the way.

The world hath been long abus'd by *Court-Preachers* (such may be as this Doctor) first crying up the *sole Divinity* of *Monarchy* in generall, and then (what must follow) the *absoluteness* of this in the *Kings sole Person*. No marvell, — *id sibi negoti* — by this craft they got their living. Now they doe (with this *Resolver*) begin to fore-see and acknowledge, that if *Monarchy* were of *morall* and *speciall institution* from God, it would at once condemne all other formes of government of rejecting a *divinely morall*, and therefore *univerfall institution*, and make this *Monarchy* as *unlimited* as any other; for what *limits* or *after-bounds* can man set to *Gods speciall institutions* ? That there be in all *Societies* of

men, a government (capable of it's end, safety) is out of question Gods institution and morall; but that this government be so, or so moulded, qualified and limited, is as questionlesse from the passion or consent of the Society to be govern'd, *Hanc potestatem a populo efluxam Rex habet* (as Fortescue before) the qualification of the power is an eflux of the peoples consent, as the power it selfe (as the Doctor tels us) an eflux of Gods Providence; and to say truth, he him selfe acknowledges as much, confessing, *That no particular forme of government is, jure divino*, it must be then *humano* sure, from the peoples consent. Fol. 19. B.
Sect. 3.
Ibid.

It was but a while since good Pulpit-stuff with Court-Doctors, That safety being the end of government, and the King only by God solely entrusted with it, he was not bound by or to any humane Lawes in the managing it to that it's end; he was to use whatever the result of his owne judgement concluded fit and conducing thereunto, nay he was not bound to keepe any Oath he tooke to the people to be rul'd therein by Law; there could be no commutative justice betwene him and them, only distributive from him to them, so that all they had was his, to the very parings of their nayles, his Oath was but a peece of his Coronation show, he might take it to day and breake it to morrow without perjury, because he was under a former and higher obligation to God (by Whom only he was trusted, and to Whom only accountable) to use whatever meanes he should thinke conduing to the end for which he had it only from God: that the *Salus populi* committed only by God, and solely to Him, was a Law betwene God and him only, before all other Lawes, and therefore these must not hinder him in the discharge of that to God by any means, which he should find in his owne judgement conducing therunto, the Oathes fault (not his) was in being taken, not broken. And to this purpose the whole body of the Cannon Law was mercilessly rack'd and rak'd into, for rules miserably mis-applied, as *A turpi voto muta decretum, Quod incautè vovisti ne feceris*, and *Non perficienda promissio sed penitenda presumptio*, &c. yea and some seeming Scriptures shamefully suborn'd too, as that of Davids confession, *against thee only have I sinned*, spoken, only in respect of the secrecy of his sinne, and therefore 'tis added, *and done this evill in thy sight*, or because sinne is properly against none but God, being a transgression of his Law. As if the King tho' he be, *custos utriusq; tabulae*, Keeper of both Tables, yet were bound to keep only the first, he owes no duty to man at all? And againe, that other of Davids praise, *My Lord the King is as an Angell of light*; now Angels are accountable to God onely, not men; and therefore the Oath the King takes, is (forsooth) not to men but God; (whereas Divinity tels us the formall difference betwene an Oath and a Vow, is, that a Vow is to God, an Oath is by God, wherein there are 3 parties still, *Who*, by *Whom* and to *whom*; belike then, if he sweare to God, the people are the party by whom he sweares: Nay, our owne *Dialect* will tell us, That the King is our liege Lord, as well as we his liege people, that is (as the word signifies) *mutually bounden each to other.*) All this and much more of this *Demetrian* divinity was ordinarily preach'd by these Court Acts 19. 25.

Supremacy of power was in the *Kings Person*, and that *his judgement* was the *sole supreme rule* of that power. But we go on,

Now the *end* or purpose of this *mixture* of the 3 *Estates* in this government, 'tis the *safety* of its *safety*, as all government ayms at *safety*, so this temper in it at the making this *safety* more *safe* or *sure*: The common interest of the whole body of the Kingdome in Parliament, thus twisted with the *Kings*, makes the *Cable* of its *Anchor of safety* stronger: So then, the government by *Law* its *rule*, unto *safety* its *end*, is ordinarily entrusted to the King, wherein, if he faile and refuse, either to follow the *rule Law*, or to its *end safety*, his *coordinates* in this *mixture* of the supreme power must according to their trust *supply*. But you'l say, there is no *Written* or *fundamentall Law* for this. I answer (to speake properly) if it be *Written* it is *superstructive* and not *fundamentall*, *Written Lawes*, that were not *Lawes* before *Written*, are repealeable and alterable, even while the government remains the same, *fundamentals* cannot: a foundation must not be stirr'd while the building stands; That of *Magna Charta*, where most of these *fundamentals* are (at least) implied was *Law* before 'twas *Written*, and but there, and then, collected for easier conservation and use; but if we would know what is meant by those *fundamentall Lawes* of this Kingdom, so much jeer'd at in this and other *Pamphlets*; it is that originall frame of this *coordinate* government of the 3 *Estates* in Parliament consented to, and contrived by the people in its first *constitution*, and since in every severall raigne confirm'd both by mutuall *Oathes* between King and people, and constant *custome time* (as we say) *out of mind*, which with us amounts to a *Law*, wherein the *rule* is, *Quod non disprobatur prasumitur*, it cannot be disprov'd from taking place upon all occasions, therefore it is to be presum'd to have continued from the beginning, even in the Parliament Summons of *Edward 1*. This *Law* is cal'd, *Lex Stabilita*, & *notissima*, even before it was a *record*.

(i.) An established and known Law.

Now as this *mixture*, the mean unto this fuller *safety*, dies not, 'tis not *personall* but *incorporate*, and *Corporations* (the *Law* sayes) *die not*, so, that *Reason* or *Wisdom* of *State* that first contriv'd it dies not neither, it lives still in that which the law calls the *Reason* of the Kingdome, the *Votes* and *Ordinances* of *Parliament*, which being the same (in the construction of the *Law*) with that which first contriv'd the government, must needs have still power to apply this coordination of the government to its *end safety*, as well as it had at first to introduce it; otherwise it should not still continue in the office of a *meane* to its *end*.

Here, in our present case the necessity of applying this coordination or mixture of the government is *imminence of danger*, which (if any man will make himselfe so very a stranger at home and to all the world besides) as to deny it, the matter is not great, 'tis *coram non iudice*, it has another competent and entrusted judge, the two *Houses* (wherein the *Law* makes the *Reason* of the Kingdom to reside) who have by *Vote* concluded it; Nay the *Kings Majesty* himselfe acknowledges *imminence of danger* in his *Writ of Summons*, *Mandamus quod consideratis dictorum negotiorum arduitate, & periculis imminenibus*, imminent dangers:

dangers: where, (by the way) we may take notice, that his Majesty is by the above-mentioned fundamentall *Law* to call a *Parliament* when there shall be any *imminent danger*.

Well, in this *imminent danger* of the State, the meane thought fit by this the Kingdomes *reason* to this end its *safety*, is, the securing of its *Militia*: (the *seeds* of Reformation are to be sowne, and no man but makes his *sence* before he sowes his *seed*; the State is in its unsound and rotten parts to be *lanc'd*, it may be *dismembered*, and who will goe about such a cure, but he will first bind the *patient*.) In this, the ordinary way is taken, by a *Bill* offered the *King*, he refuses to passe it; I know 'twill be said, he never refused to passe it: It cannot be deny'd but that he refused to passe it according to the *advice* of the *Houses*, which is (sayes the *Law*) the same ever-living *reason* of the State that first *advise'd* the government, and must still *advise* the way of *applying* it. But doth not this you'l say deny the King his *negative* voice in making *Law*? No. This *Vote* or *Ordinance* of the two Houses, 'tis not an *Act* of Parliament, or *Law*; 'tis but an occasionall supply of this *coordination* of the government (in case of one parts refusal) least the whole should ruine, and to continue but untill a *Law* may be had.

But you'l say, how, and where doth this *Reason* of the State thus residing in the *Votes* of Parliament, live in the *intervals* of Parliament. I answer, *virtually* it lives to the needs of the State, in the present *Laws*, the births of those *Votes*, *potentially* in Parliaments to be call'd when there is need, it being but *occasionall*, needs no continued actuall existence.

Well, hereupon the ordinary way of *Bill* failing, the Houses must not desert their trust, but apply it that way which by the first *constitution* of the government in such case is left them, that is, by their *Votes* and *Ordinances*, wherein (as before) the same *Reason* of the State still lives to pursue its *safety*. The King still persists in his refusal, and instead of passing a *Bill* for this secured *Militia*, raises an *Army* against their *Ordinance* for it, claiming the *trust* thereof to belong to him; they deny it not, so he discharge it by this entrusted *Reason* of the Kingdom, the advice of Parliament. He will doe it, but it shall be by the advice of them against whom it is to be secured, whom the Parliament has voted enemies of the State, and against whom especially it was first called: Now 'tis a rule in *Law*, *Interest reipublice ne sua re quis male utatur*, No man may use his own right to the *Common-wealths* wrong or damage; the *Law* provides, that a man burne not his own *Corne*, drowne not his own *Land*; nay, that a man bind not himselfe from *Marriage*, or the manurance or tillage of his own *Land*, because against the good of the *Common-wealth*.

Well, the King in steed of applying this trust of the *Militia* (ordinarily his) against these *voted* enemies of the *Common-wealths*, gathers those very enemies into an *Army* against the *Parliament*, that had *voted* them such, or which is all one, the *over-voting* party therein; 'tis certaine the *Law* allowes not the King without consent of *Parliament* to raise an *Army*, 'tis as certaine these men thus in *Armes*, tho' rais'd by his *Personall command*, are enemies to him in his *politic* capacity as *King*, because they are in *Armes* against *Law*, and so against the Kingdom, and so against him as *King*; who (tho' in place he be) cannot in *Law*

be devided from his *Kingdom* or *Parliament*, no more then the *head* can from the *body*; nay, they are not only in *Armes* against *Law* (i.) without its authority, but against the very being of it which depends on *Parliament*. What shall the two other *Estates* doe? nothing but an *Army* is left whereby to relieve these enemies of *King* and *Kingdome*; the third *Estate*, the *King*, is so faine from joyning to raise an *Army* to that purpose, as he invites and detaines these enemies of the *Kingdome* from its justice: What, but use that power in *Armes*, which the government in such case of the *Kings* refusall hath entrusted them with to its preservation, especially when 'tis but for the apprehending of such enemies to it, as (besides their voted delinquency by the *States* judgement) are sufficiently convinc'd by their own flight from its justice; *qui fugit Legem fatetur facinus*, flight argues guilt alwayes. Every *Court* in its capacity, has power to apprehend and bring *Delinquents* to the justice of it, and that by force, and if need be, by arming the *posse comitatus* to enforce it, and why not the *Parliament* the regall *Court*, the *posse Regni*? An attempt to kill a *Judge* on the *Bench*, the *Law* makes treason, and why? but because 'tis in his *Laws* and *Courts*, that the *King* specially raignes, 'tis in them his *Crowne* and dignity is more specially impeach'd. But you'l say, 'tis the *King* makes it a *Parliament*, and he is not there.

To which I answer, in a *coordinate* and *mixt* government, one parts refusall exempts not the other from its duty, nor must it defraud the whole of its safety; so, it should frustrate the very end of that its coordination, which is (as we have seene) supply, for the more security of its safety.

Next, at all times the *Houses* are a part in the supremacy of power, and in case of the other parts absence and refusall both, *virtually* the whole, but more specially at this time, now the *King* hath bound himselfe by *Law* not to dissolve them without their consent: for however many stile them now in the *Kings* absence no *Parliament* at all, and his Majesties own *Papers* have some expresses tending that way, yet I wou'd faine know, whether there be now actually in *England* a *Parliament* or no? if there be not, how came it dissolved? the *King* hath bound himselfe from being able to dissolve it without their consent, they cannot without his, neither consent hath been obtain'd: Legally dissolve it he cannot by his removal, for, then he should be able to doe more by his absence then he can by his power, he should be able to keepe and breake his *Law* at once, for the *Act* is against removal without consent as well as dissolution: and illegally dissolve it he cannot, if so dissolv'd, it would remaine a *legall Parliament* still, an injury cannot take away a right. Well then, a *Parliament* it still remains in his absence, and if a *Parliament*, why should it not have the power of a *Parliament*? a *Parliamentary* power is the inseparable adiunct of a *Parliament*: why not able then, in order to the end of a *Parliament* his and its preservation, and therein of the whole, to apply the power of that whole wherewith it is entrusted? why should the whole be frustrated of its safety, the end it first coordinated, and thereby fitted the government to, by one part of that governments refusall, when the other part is willing? specially when that one part hath bound it selfe

seffe cut from hindring the others willingnesse, willingnesse to preserve the Whole, and in the Whole that unwilling part too : how ever this *Resolver* fight the *Observers* Argument drawn from the highest end of government, the peoples safety, he cannot deny but that the rule holds alwayes, *finis quo ultimatio eo influxu potentius*, the highest end hath the strongest influence, so that end still all other subordinate ends stand but in the office of meanes, and this that very Text the *Resolver* so much clings to, evinces, where the higher power is call'd a Minister for thy good, The peoples good is the highest end of the highest power, and therefore that which gives essence and denomination to that power according to those rules in nature, *Finis habet rationem forme in moralibus*, the end hath the office of the forme in moralls, and *Forma dat nomen & esse*, the forme gives denomination and essence both, the end then being tho' last in the execution yet first in the intencion of the efficient, must needs qualifie and regulate the worke.

Rom. 13.

Yes, a fine way you'l say of preserving the King by fighting against him; no such matter, the King hath a double capacity, *politick* and *naturall*, in his *politick capacity* as King, in fighting for the preservation of the Land and Kingdome they fight for him, what King could he be without a Kingdome to governe, and Law to governe it by? in that therefore the Law tells us, he cannot be severed from his Kingdome, or Parliament its representative body (tho' never so farre in Person distant from it) And in his *naturall capacity*, as a man, they fight not against him in that neither, they humbly begge his safer presence with them, at least his withdrawing from his, and their enemies; nay, they fight for him this way too, we never reade of a King once *unking'd* but he is quickly *unmand* too, they fight to disingage and unthrall his Person from that unsafe and unworthy imployment those enemies to him and his Kingdome put it to, in making it a shelter, a breast worke, but a mudd-wall to their own dangers, which they feare from his own Laws: for however his Majesty may be perswaded by them, 'tis his cause has engaged them, (most of them) 'tis their own guilt and danger that hath engaged 'em, and engaged them to engage him: and although in their mutuall engagements, they may think eithers turne served, it may be neither sufficiently knows who steers their course, what depth of water they draw; certainly, he that looks on the conjunctures of the late affaires of this and the neighbour States, cannot but beleve (tho' unknown to his Majesty, and it may be many about him) that those long-spoones to feed with the Devill with, (as one calls them) the Jesuites, both at home and abroad throughout most parts of Christendome have (tho' at a distance) the first and highest and therefore strongest influence into his Majesties present counells, bayting their unseen hooks with his and his Armies interests, making them but to pull at the Oare while those sit at the stern: His Majesties aime (may be) is to bring his Crown out of wardship, (as Lewis 11. of France bragged of his) his Army's (may be) many of them but at keeping their necks out of the halter, but those Basilisks (that kill with their eyes at distance) looke further, and have their ends mingled with, and lapt up in these, upon Religion and the State both.

2. The finall and casting result of this States judgement, concerning what those Propositions
Laws,

Laws, duties, and means of prevention are, resides in the two Houses of Parliament.

Well, in this mixture of the *Monarchy* or *supremacy* power and trust of Government, the two Houses of Parliament making a *coordinate* part, what is their share? You'll say, they are the Kings great Counsell, but what, only to *consult*? (The questionless; he, and not we were to elect them, who chuses not his his own Counsell that he is but to consult with?) No, but to *consent* with him in the making of Lawes the highest office of Government; but how a Counsell voluntarily assumed by him (as *Moses* his substitutes in the *Wilderness*) no, but assigned to him by the first constitution of the Government from the very same consent of the people that first made the King, and by succession on him this King, in whom the first King still lives as in a Corporation (as the Law calls him) which *dies* not; For the Doctor dares not *speak out*, when he talkes of the Kings right by conquest to the Kingdom: *Conquests* (I confesse) may give such a right as *plunderers* use to take in houses they can master, *aisus in re*, not a *ius ad rem*, (as the Law speaks) a *ius tenoris*, not a *tenorem in re*, a right of tenure, but no tenour of right; how, not onely undo for all, but how unchristian, inhumane a *barbarisme* is it, to talke of a right of *Conquest* in a *civill*, a *Christian State*? Were a Land inhabited by *Wolves* and *Tigers* only conquest might give a right, because none could claime any other; but among men capable of, and invested in a right, there was never more then two wayes of alienation of a right, *forfeiture* and *consent*, and even in that of *forfeiture* there is a *consent* too implied, the condition is (therein) consented to, on both sides, and what *forfeiture* can there be where there was never any *covenant*? If *Conquest* may create a *Title* where there was none before, certainly it may make that *Title* as *absolute* and *arbitrary* as the Conquerour pleases, for what should *let*, where there needs no *consent* or *covenant*, and then, why might not such sooner a King in a *limited Monarchy* (as this is) make himselfe as *Arbitrary* as he pleased by *Conquest*? 'Tis easier to *augment* then to *create*: no conquest may restore a right, *forfeiture* may loose a right, 'tis consent only that can *transact* or give a right. And I cannot let passe how many ways this *Resolver* abuses his Majesty herein: A *Title* he has (he sayes) by conquest; but he must not *rule* by it; a King as Conquerour, and yet he must not *rule* as Conquerour; what a strange *Title* is this that makes him a King, but gives him not any *Rule*? And how *injurious* doth he (herein) labour to make the King to his posterity, as well as *rulelesse* in himselfe? How much doth he wrong his inheritance that subscribes and swears to a *limited Title*, and has a free one the while to hold by?

Seet. 4.

Well a power of *consenting* is of all hands agreed on to be in the two Houses, the faculty of *Legem dare* is not in difference, the question is about the *Declarative* that of *Legem dicere*, the Law is the rule, and cannot be framed without all the three Estates, but who must apply this rule by giving it the finall and casting resolution of it's sence? without which the *Record* is but the *Sheath*, 'tis the sence is the *Sword* of the Law; such a power or faculty there must be in every legall government, after all *debatement* to give Lawes their sence, beyond all

all further debatement, otherwise, there would be a *Processus in infinitum*, debatement still upon debatement, and as nature avoyds infinities, so the Law inconveniences, even above mischiefs: and 'twere a defect of no lesse then infinite inconvenience to the end of the Law, Government: if this *decisive faculty* after the *debative* hath passed upon the sence of the Law, were not some where resident in the government, *Perfectum est cui nihil quod convenit deest*, and 'tis a monster in Nature, , *quod deficit necessarijs*, That is perfect which wants not what is convenient, that a monster in Nature which is defective in what is necessary. And where should this faculty reside, but in the two Houses? in whose Votes the Law it selfe places that very same specifick reason of the kingdom, that at first contrived and still animates the Government; and which ever since contrives the very Laws themselves to be declared, (every one abounding most in his owne sence;) which thus we prove.

This Principle which all debates about the sence of the Law are to be resolved into Without further debatement, must be either the Records themselves, or the Judges, or the King, or Houses of Parliament: Not 1. The Records, for thats the peculiar Priviledg of Gods word to be autocriticall, its own last ludge, and even therein too, tis he who was the first contriver, that is, the last Interpreter: God only could fore-see from the beginning, what doubts may arise about the meaning of any part of his Records, and therefore he only can supply & fit those with some other part therof to interpret them; Mans Laws are therefore still liable to repeales & dispensations, because the makers could not fore-see how unfit they might prove for after times, & even then those repeals & dispensations given, the are (in construction of Law) no other then interpretative still; it is interpreted that had their first makers of the lived to see their unfitness, they would have consented to those their repeals and dispensations; the Records then may be helps to their Interpreters, not the Interpreters, because 'tis they that are to be interpreted, they are the rule, they cannot be the hand too, to apply it; though penned with never so much care, time will weare them into a capacity (at least) of different sences to different understandings, and a different or double sence cannot be this highest principle of resolution, there can be but one highest.

Why not the Judges then? They take *solemne Oathes* to interpret Law aright; true, yet we see their interpretations and Oathes to fall under further debatement still, witnesse (besides many other) the late case of *Sh.p-money*, the Oath they take 'tis to the State, and therefore that by its reason residing in the Votes of Parliament, is to judge how truly they have kept it. It comes then to fall betweene the King and Parliament, which shall have it? both cannot, if divided, as now they are (at least personally) and the principle of *ultimate resolution* cannot be a divided one, for then it cannot resolve.

But you'l say the principle of making Law is King and Parliament joynly; True, joynly, a joynnt principle it may be, but not a divided one. But you'l say, If Lawes cannot when the principle is divided be made, nor must they in such a case be declared? I answer there is more need of declaring old Lawes then of making new, a State may be governed by the old ones without new; but not by the old ones without this finall resolution of their sence, they are of no use with-

out it, the making of Law, is a standing permanent Act *in fact*, done at once; the applying them by their *interpretations*, a transient one, *in fieri* alwayes a doing. But you'l say then, if this declarative power be so necessary, and so necessary in the Houses, how shall we doe in the intervals of Parliaments? I answer the *indgements* of inferior Courts must stay further debates untill a Parliament be had to try those *indgements* by, which therefore should (by Law) be once a *yeare* (at least:) Well then, if this last casting principle be so necessary, and cannot be a divided one, why not the King? he cannot in himselfe be divided, the Parliament may? I answer, first, though the Members be divided, the *maior part* that carry the *Vote* cannot be: Next, this principle as it is thus necessary, so it must be a competent one too, and that requires two things, *ability* and *fidelity*; *ability* to know what he is to judge, and *fidelity* to judge but what he knowes aright; for matter of *ability* to take cognizance of the cause by; His Majesty often professes himselfe no Lawyer; therefore, in Law he judges not but by his Courts, in the meanest of which the sentence past stands good in Law, though the King by Proclamation or in Person should oppose it: whereas there is nothing more frequent or proper to Parliaments then to reverse any of their *indgements*: But the King (you'l say) has promises of assistance from God himselfe to enable him herein, *A divine sentence is in the mouth of the King, and his lips shall not transgresse in iudgement*; and againe, *my Lord the King is as an Angell of God to discern betweene good and evill*; true, such Scriptures I know havebin taught to speake what Kings can doe in stead of what Kings should doe, but these are no promises but precepts, at least but particular prayes of one, no generall claymes of all Kings, nay one of the wisest Kings (and ours too) experimentally confesses, *That With Kings 'tis so much the more hard to doe right, by how much 'tis so easie to doe wrong*; and indeed what would such a power be less: then arbitrary, if what he please to declare to be so, must be Law, so, what vaine things would Parliaments be, what wild things Kings, and what miserable things Subjects? But in point of *fidelity*, why not the King rather then the Parliament? Why may there not be a factious, packt or enslaved Parliament, as well as a wilfull, flattered, abused King? Yes I confesse 'tis possible, but nothing so likely, and it behoves the wisdom of a Government, where nothing can be contrived against possibility of miscarriage, to secure what may be against probability: So much the Resoluer acknowledges, *Wee can not* (he saies) *expect absolute meanes of safety in a State, but such as are most reasonable*: now experience shews that most mens actions are swayed (most what) by their ends and interests; those of Kings (for the most part) as absolutenesse of rule, enlargement of Revenue by Monopolies, Patents, &c. are altogether incompatible and crosse-centred to those of Subjects, as Property, Priviledge, &c. with which the Parliaments either ends or interests cannot thus dash and interser, the Members are all Subjects themselves, not only entrusted with, but selfe interested in those very priviledges and properties; besides they are many, and so they not only see more, but are lesse swayable; as not easily reducible to one head of private interest; but by a neer equality of Votes (you'l say) in Parliament it may come to an odd man to cast by, and then the whole trust and interest both, lies in him wholly.

Prov 16.10.
1 Sam. 29.6.

Basil. Dor.

Señ. 5.

I answer, no such matter, *ultimum Stitricidium non exhaure Clepsidram* the last odder sand doth not make the houre glasse empty more then any of the rest it doth but tell us when 'tis empty suppose 200. of one side and 201. of the other; the odds is carryed by the one but the *vote* by the whole 201. the odder one tells us 'tis the *major part* but 'tis all the rest that make it so: so that we have (however) the *judgement, trust* and *interest* of 201. cholen men engaged in the equity and fittest of the *Vote*: this is it that great Father of the Law, so much magnifies the wisdom of this government in, *Dum non unius aut centum solum consultorum virorum, sed plus quam trecentorum electorum hominum, quali numero olim Senatus Romanorum regebatur, ipsa sunt edita*, and neer upon that number of 300. the major part of both Houses falls to be.

Fortes. cap. 18.

But you I say, how if one or both Houses be divided, and that into equal *Votes*, how then is the principle either one, or able to *resolve*? I answer, *de impossibilibus non est deliberandum*, impossibles are not to be consulted on, it cannot be; for in such a case of either Houses, equality of *Votes* their severall Speakers have then, and not till then *Votes* to cast by.

But how yet doth it appeare, but that (at least) this power of last Resolution, is as *arbitrary* in the Houses, as it would be in the King: I answer, it cannot be denied nor avoided, but that as the Government (in the forme or qualification of it) was at first an act of the *will*, and so *Arbitrary*; so it still remaining the *same* it must remaine some where *arbitrary* still, else our forefathers should not convey that same government to us which they began, but should bind us in that wherein they were themselves free: it is the priviledge of Gods Laws onlie to bind unalterable, now where should the *arbitrariness* of this facultie reside for the *States* use, but where it was at first in the *consent* and *reason* of the *State*? which as (we have seen) the Law places in the *Votes* of Parliament, where this arbitrariness alliaied and ballanced by *number, trust, self interest*, 'tis best secured from doing hurt; in the naturall bodie the *will* followes alwaies the last dictate or resolution of the *understanding*, and that, (in this politicke bodie) being the wisdom of its great Councell, what so fit as it to give dictate to what necessarilie remains of will or *arbitrariness* in this faculty? the *Resolver* himself acknowledges no lesse, when he sayes *the King is to see with their eyes that are of different judgment from him*. But yet further if *ability* and *fidelity* make up the competency of a *faculty* to give Law, its finall resolution by; why not then the Judges in the *Chequer-chamber* rather then the Members in *Parliament*? they for matter of *ability* are *skilled*, and for matter of *fidelity* sworn, have more *dexterity* to judge and lesse *liberty* to erre: I answer; for their *skills* and *oath*, the Houses may make use of both if they please: it was the wisdom of this government, considering mens aptness rather

Self. 5.

ther to warpe after their *interests* and *ends*, then to be kept upright by their *skills* and *oaths*, to trust it rather to many independent mens *interests*, then a few dependent mens *oaths*, every dayes experience tells us that *interests* are better state security then *oaths*, specially when those *interests* have (as here) the command of those *oaths*, to bind all that *skill* too to their service: besides, as their *interests* with us tye them more to do a *right*, so our *elections* of them tye us more to suffer what they do if not a *right*: because, what *they* do, *we* do in them, and self *wrong* is seldom self *revenged*. Lastly, if theirs be the finall judgment what is *Law*, then (*à fortiori*) much more when it is *endangered*, and the state in it? and what fitting *meanes* of prevention are to be used.

P R O P. 3.

In this finall Resolution of the States judgment the people are to rest, and in obedience thereto, may with good conscience, in defence of the King, Laws, and Government bear and use armes.

THIS last and casting *resolution* of judgment then (we see) resides in the two *Houses* of Parliament, which are therefore called the great Councell, not of the King only, but of the kingdom, and therefore by it *elect*ed and *entrusted*, but how resides it in them? *infallibly*? as this *Resolver* imposes on their *Idolizers* (as he speaks?) no: they are not therein in themselves *infallible*, but to us *inevitable*: our judgments are not *enthralled*, 'tis our *interests* are *entrusted* and so, subjected to their decisions: our judgments are not *infallibly* guided from either erring with them or differing from them, but bound up in, and *superseded* by theirs from gaine-saying or *resistance*; here then (we see) is no *Parliament Papacy* at all (as the Doctor pleases to descant) he himself well knowes, that though the *Pope* claim an *infallibility*, and we deny it *him*, or a generall Councell either, yet we ascribe to a rightlie constituted generall Councell, a power of binding all under it, from all manner of disturbance to its decisions; and why should a civill generall Councell, of *England* have lesse power in it? yea further, why should we not, (as we have bound our selves by our choice and trust, externally to submit to their determinations, so) be enduced too, to believe their joynt judgments better then our single opinions? there intelligence and assistance is, (in all likelie hood) much better, I must confesse in the *Militia Ordinance*, my opinion (possibly) and anothers, of this, or that Lords *fidelity*, may incline us to think they might have bin as well continued in their *trusts*: but why should we not beleeve, we may sooner erre therein then they? we know our own, we know not their

informations, discoveries, reasons; the Law is called *mens sine appetitu*, a mind without passions, and the Law-makers should be (as meer as may be) so too, the *Parliament* a speaking *Law*, as the *Law* a silent *Parliament*, Law-makers should be (as *Aristotle* speaks) rather λόγοι then αἰσθητικοί rather *reason* then *men*, and, (as he speaks) but λογισμικοί at most; but peeces of quick and walking *reason*; every Member of *Parliament*, ('tis like) is not such, yet certainly if some neighbour Members might personally hate this or that *Lord*, upon particular entercourse of wrongs, yet, no one *Lord* hath in all likelihood provoked the greater number of the *Commons House*, and 'tis that must go to the displacing him; or if he should, 'tis very much if the other *House* should jumpe withall them in such a *personall* hatred.

Well then, wee see what power the *Law*, through our trust, gives the two *Houses*, and all, in order to the safety of the *King, Law* and *State*; They judge by the *reason* of this *State*, and *rule* of this *Law* (both residing in them) that all three, *King, Law*, and *kingdom*, (in *Law*, as we have heard before not separable,) are not only *imminently endangered*, but *aetnally invaded* by an *Army*, engaged by the adjudged *forfeiture* of their own lives, there remains no way in the highest *result* of the *States reason* to preserve these, and prevent those from apparent mischief, but an *army* to withstand this other *army* ready to *advance*, nay in actual attempts of hostility; of whom should this *army* of the *state* consist, but those who are *endangered*, nay *assaulted*, yes assaulted, and *plundered* too, nay *murdered*, before in any *Parliament army* there was so much as man *listed*, all before were but *Musters*, and *manning* of *Forts*, for the kingdoms better defence against *Forraign* dangers.

Well the case thus standing, this great *Centurion* of the kingdom the *Parliament* (for the *King* refusing, we may now (better then our forefathers) give that name to the *Houses*) sayes unto one of this now necessarily yet voluntarily listed army too, *go and he goes, to another come and he comes, to a third do this and he doth it*; and wherein lyes now the uncenscionableness of this obedience? it is *naturall* all the faculties and members in the naturall body are to the defence of the whole commanded to their offices by the understandings last *result* or *dictat*; it is *politick*; prevention is the *right eye* of *politic*, recovery is but the *left*, the *after game*. What other authoritie hath a Sheriff or executioner to put a malefactor to death? but you'l say conscience must have some higher footing, 'tis Gods *Accomptant*, and must have his *warrant*: and it has that fully too: First, a *warrant* of *Charity*, in the sixth commandment, which not only forbids *murder* but commands the *preservation* of our own & our neighbours lives. Secondly, of *justice*: *Render to all what is due*, and we have seen, that in case of the *Kings* refusal (already voted by the kingdoms *Reason*) the command of the kingdoms power (in order to its *safety*) 'tis its *Councillis due*.

Note that the two Houses are usually in the Parliament rolls called the Parliament & their judgments on Delinquents, when not by Bill, is there called the judgment of Parliament although it be by the two Houses only, and the King no party.
Ro, 13.7.

1. Peter 2.

Rom. 13.

2. Sam. 25. 28.

Justice, of obedience, submit your selves to every ordinance of man, and that for the Lords sake. Sayes S. Peter, we have seen it was the ordinance of man, the first men that introduced the government of this State, and now of the men that are ordained to administer that government. Let every soule be subject to the higher powers (saith S. Paul) and that not for wrath but conscience sake, which place I shall sufficiently cleere anon) besides David in his own defence used an army, & (though against the King) yet is said to fight the Lords Battells; now we have seen the Coordination of this highest power in this kingdom for its better safety, & therein the entyre necessity of its efficacy to its end, though one part withdraw; if the King (especially now he has bound himself by Law not to dissolve this present Coordination) he should be able legally to break the Law, then his government were utterly absolute, or rather absolutely impossible, and illegally he cannot, for the Law hath provided that as King he can do no wrong, (1) nothing against Law, because he cannot, (in that capacity) be severed from his Parliament, and what they enact together is Law: So then the houses commands are in this our case acts of the highest power to which the Apostle bids us to be subject.

I do not say if any Souldier in this Army of the King and Parliaments (for we see legally severed they cannot be) do fight not satisfied in his own conscience, but that he sins, and that (as the Doctor urges so often) Damnable: I say only, that he hath warrant enough for his conscience if he apply it, & if he do, the Doctors Damnation is not that of the Apostles, but much what of the nature of that of the Damned of these times. And now these three Propositions being cleared, the Answer to the severall Sections of his Treatise will be both very short and easie. To answer that all his arguments and instances against resistance are mis-senced in absolute Monarchies, whereas this of ours is mixt would serve the turne; however particularly thus.

The first Section containes little else then the laying down of the manner of consciences, discourse, by assuming to the Proposition granted, and so concluding: saying that he the there tells us, that all his fellow Divines deny to the King an arbitrary Government, and yet, in his fifth Section he tells us too that the chief power and finall judgment is in one, and he that one; which what (I pray) amounts it lesse to, then an Arbitrary Government? and he denies that again too almost the next word, in his omnibus ordinibus regni consentientibus, for what consent of all needs there if the finall Indgement be in one? now that (though the King in Person withdraw) there are virtually, omnes or dines regni consentientes, it hath sufficiently appeared; and for his person, if that were with them to consent or dissent either, doubtlesse there would be no resistance made at all.

The

The 1^d. Section begins with certaine instances of resistance, as that of the people in behalfe of *Jonathan*, *David's* resistance, and *Elisba's*, but wee make no use of them, need them nor, and therefore need not answer the Doctors refusal of them, only (by the way) *David's* resistance was by an Army, and what use of an Army unlesse it may fight against, as well as avoyd the danger, besides 'tis said that (though against the King) *he fought the batt. ls of the Lord* (as before) other instances hee therein against resistance, but all in *simple* 1 Sam. 25. 28.
and *absolute Monarchies*, those of the *Jewes* and *Romans*: nothing to our case: only, take notice by the way, that those *Monarchies* were *absolute* and *arbitrary* not by conquest, but by consent of the people, the *Jewes* desired of God a King, to be governed by, *after the manner of the Nations* (sayes the Text:) which was *arbitrarily* (as the Doctor observes out of *Justin*) and thereupon is it that God by *Samuel* tells them what such a King *would doe to them*, not what he *might do* 1 Sam. 8. 5.
(as the Doctor seemes to inferre from the place.) And for the *Roman Empire*, 1 Sam. 8. 11.
its *arbitrariness* was not introduced by conquest, but by consent of the Senat, (how ever it may be ayled thereto by Armes:) and for that Title of *Succession* (he there speakes of) it no way excludes *consent*, for it begins first in the election and *consent* of the people, and *virtually* continues so still in the mutuall bonds of oaths betwene King and people, to governe and bee governed by Lawes by them *jointly* to be made.

But the maine substance of this Section is a couple of Texts, that of *Rom. 13.* and *1 Peter 2.* To the first we easily answer: (if not written particularly to the *Romans*, who were under an absolute *Monarchy*, and so no more to concerne us then the *Judicial Law* doth (*i. e.*), only in the generall equity of obedience) yet suppose it referre to all government in generall it makes (as 'tis often a'ledged) altogether for us, it requires obedience to *ordained powers*, (*i. e.*) *legal* commands not *wilfull pleasures* of Governour, now ours is *ordained* to be *ordinate* and *mixt*, and relides in that part of it from which the other though withdrawing in person cannot take it, and to which the Law in such a case cleerely gives it, including (as we have seene) in it *virtually* the other part too, who in his politicke *relation* cannot bethence (as King) divided: the meaning of the place then must be this; *The powers that be* (*i. e.*) *so* or *so* established by *consent* of man, are *ordained* of God to be obeyed; or it is Gods ordinance that men should live under some government, and *submit* without *resistance* to that kinde of government they have by *consent* *established*, just (as Saint Peter followes him) *to the ordinance of man for the Lords sake*; when the Papists pressed with this Text, aske us why wee, that are so much for obedience to higher powers, doe not submit to the Churches highest *highest power* in the *Pope*? we answer, 'tis a *usurpt*, not an *ordained power*, *ulcus protestatis*, a *tumor* or wen, no part of the body, a power never either *consented* to by the body the whole

Church, or substituted by its Head *CHRIST JESUS*. There are two kinds (wee use to say of tyranny, *regiminis* and *usurpationis*, that which is onely of *Gouvernement*, though never so heavie yet must be endured, *not on ly to the good* (sayes the Apostle) *but the froward too*, and therefore I know no man that defends the tenne Tribes revolt from *Reheboam* as the Doctor insinuates. That other kind of *usurpation* it hath no right, no *ordination* at all, and so no subjection due to it: in all power of government *Divinity* tells us there are foure things, the *institution*, the *constitution*, the *acquisition*, and the *use*: the two latter *acquisition* and *use* are confessed to be often times rather from the Devill by bribery, blood, rapine and the like: the *constitution* alwayes from mans consent, the *institution* alwayes from God, so that here is more than Gods bare *permission* or *approbation* either (as the Doctor charges us to hold.) here is in every *ordained* power as well Gods *institution* of it, and *injanction* of obedience to it, as mans *constitution* of it: That there be a Government, 'tis of God, *what* this government shall be, whether *Monarchy* or *Aristocracy*: or if *Monarchy*, whether simple and meere *subordinate*, or mixt and *coordinate*? 'tis of man, so then, *Let every soule be subject to the higher powers, for the powers that be, are ordained of God, (i. e.)* therefore let every soule be subject to powers (not *wills*) because Gods providence hath *instituted* them, and so subject as mans consent hath *constituted* them: now we have sufficiently seene by the *constitution* of the power or government of this kingdom, the Law (as the *rule*) is put into the hands of the two *Houses* of Parliament by their *Votes*, (as it's *reason*) wherein we must rest, to be applyed to its end, the *safety* of K. & State.

I wonder therefore the Doctor should so much insist on this Text, for if he cannot prove (what he indeed denyes) the government to be *absolute*, and soly in the King, he cannot hence enforce obedience to his *personall* commands.

The next text is that of 1 Pet. 2. *Submit to every ordinance of man*, wherein the Dr. hath espied a double *advantage*, one from the Greeke word *ἀνθρώπων* which rather signifies *humane* then of *man*, so that it is called *humane* (i. e.) *in or on man* (as he would have it) as only the *subject* of it, not any way the *cause*: 'tis strange a Doctor of Divinity should trifle thus with Scripture, and as *Shoemakers* doe with their Leather, with his teeth stretch it thus to his *Last*, doth he not a few lines after acknowledge (to use his owne words) *that the forme, whether Monarchy, or Aristocracy and qualifications of either forme (i. e.)* if *Monarchy*, whether absolute or tempered, are not *jure divino*, what then? not *jure diabolico* sure, it must be *humano* then, and in *jus humanum*, as 'tis opposed to *divinum*, man sure is the cause and Author, and not the subject only, nay why should the word *humane* be there at all, but as contradistinct to what follows, *for Gods sake*? why unlesse to make the sence this? that although the ordinance or government, in the manner of its *constitution* be from *man*, yet becaute in the necessity of its *institution* 'tis from God, submit to it though of *man* for the *Lords* sake.

His other advantage is in the words *supreme* and *sent*, the King as *supreme*, and *such as are sent*, (i. e.) (say: shee) the *Parliament*: but the *Parliament* is call'd, not *sent*, a difference (at least) as great as betweene *too* and *from*; but wee have already teene how the King is *supreame*, not (as those of *S. Peters* times) *absolutely* so, but in his *mixture* and *coordination* with his *Parliament*, in which every subject is a subject stil (as the Doctor urges) but the whole *acoordinate* part with him in the *supreame*, otherwise they could not hinder him from *making* Lawes, nor finally *declare* Law without him, the two highest acts of *Supreame* power.

The third Section especially containes two other texts of Scripture, the first of *Prov* 8.15. *By me Kings Reigne*. I answer, tis spoken of and by *Wisdome*, and doth thee not as well say (as followes) *by mee Nobles and Senators decree Judgement*? what is here said more of *Kings Reignes*, then of *Parliaments Decrees*, they should both be guided by *Wisdome*, that is all the place will beare.

The second place is that *Psal* 82. 6. *I have said yee are Gods*; and doth hee not there too (when he speaks it) *stand in the Congregation of the Judges* (as the text speaks) *reproving such as judge uniuersally, and accept the persons of the wicked, all Rulers are Gods alike*, (i. e.) *Gods substitutes and representatives to wads men*, upon whom hee derives some of his power and authority; doth not the word of God come to them all alike (i. e.) as it followes in the Doctors own words, *a commission for the setting up of a governing power*, whereof the manner of its constitution, hee himselfe before confesses to be from the *people*, not *God*; did not this word come to *Pilat*, as well as to *Cesar*: *Pilat* had not his power but from above, (as our Saviour tells him,) as well as them the Doctor speaks of: I wonder *touch not mine Anointed* comes not in among the rest? (as usually it doth) a Text plainly spoken to *Kings* of Gods people, not to the people of *KING S*; they were (sayes the very Text) *Kings whom he reproved for their sakes, saying touch not mine Anointed*. John 10.
Psalme 105. 10.

What remaines in this Section, tis nothing else but a jeering the fundamentall Lawes of this kingdome, so often mentioned by the Parliament, which what they are I have before shewed, not as the Doctor would have it the same with those of *France*, *Turkie* and all other kingdomes, but proper to *coordinate* and *mixt* ones, and especially this. However the Doctor is deceived in that of France which is in right a mixt government, still changed one by usurpation.

The fourth Section is spent upon a confutation of any power in the people to *reassume* the power they first betruisted to the *King*, the which no man (for ought I know) maintaines, what need the people *reassume* that which in the first *Coalition* of the *Government* they reserved (as hath appeared before).

The fifth Section. Here, wee have nothing but strange involutions of the matter, and Intanglings of the Reader, most what inconsistent as well as impertinent, one while *the state hath meanes of preservation such as the Law prescribes*, and yet not twentie lines after, *wee cannot expect absolute meanes of safety in a state*, meanes of preservation, but not absolute safety; if it bee preserved, questionlesse tis absolutely preserved, *dubiam salutem quid dat afflictis*, negat, he that gives not absolute safety gives none, againe this chiefe power and small judgement (he saies) *must be in one*, scarce twelve lines after but *Parliaments* (hee sayes) *are the only remedy for the distempers of the Kingdome*, Parliament is the only remedy and yet the only judgement is in the King.

And yet againe he tells us in the same Section, that that only judgement too of the *Kings is to see with their eyes that are of different judgement from him*. What remaines in this Section is a claime begging of three questions hee would faine have us to maintaine.

First, that every state whether *reserving* it or no, hath this meanes of *safety* by *resistance*, and to this purpose that of the *Church* is objected: a *State* indeed, but neither *civill* nor of its own *constitution*, this state Christ the head did not only *institute* but *constitute* it too, and that without any concurrence of its own consent. Then the Christians in *Tertullians* time are objected, as if they were a *civill* distinct state from the *Romans*, in which they lived, or the *Roman* other then an *absolute* Monarchie by *consent* of the Senat (as before.)

A second question begg'd is, that *in case the King and Parliaments should neither discharge their trust, the people might rise and make resistance against both* a position which no man (I know) maintaines, the Parliaments, is the peoples *owne consent*, which once passed they cannot revoke; hee still pursues his owne dreame of the peoples *reassuiming* power, whereas wee acknowledge no power can be impoyed but what is *reserved*, and the people have reserved no power in themselves from themselves in Parliament.

This groundlesse preassuiming aspertion of the peoples *reassuiming* power I wonder the Doctor so much insults on it: There is indeed a late lawcie Scurrilous pasquill that hath broken prison out of the Gate-house from a company of Delinquents there (and no marvelle if such would reassume all Parliamentary power) by the *resolving* Title it should bee a Journey man of the same Trade to this of the Doctors: where after many stale malicious slanders on the Parliaments proceedings, disprovd long since by almost every mans experience, as well as severall Declarations, all to disable the Parliament from the Kingdomes urgent preservation by any way that hee written Lawes prescribe not, (as if the Circumstances and exigencies of publike actions of this sort did not (above written Lawes)

The Title of the booke is a complaint to the House of Commons and resolution taken up, &c

laws) warrant and even element their justnesse) this raving *Bedlam* (I say) broke loose without a *Keeper*, (deserving (as it professes to desire) no answer, one of *Vulcans* forge I confess were best, fire or fetters) threatens the *Peoples* reassuming the entrusted power of *Parliament*, and with *Salomons* foote, *Pro. 26. 18.*) throwing about him arrowes and fire-brands and death; complaining and threatening both (according to it's Title) concludes at length with this Resolution, to lay hold of what is next at hand, to the reassuming this power; otherwise for ought I know this reassumption of power is like that *Papish* reassumption of the House of *Loretto*, a meere Castle in the ayre of the Doctors brain.

The Title of the Booke is
A Complaint
to the House of
Commons and
Resolution ta-
ken up, &c.

The 3d. question in this *Section* beg'd is; that we hold the cause may warrant a resistance, and here we are told what the *Primitive Christians* suffered without resistance: and that the *Netherlands* had greater cause then we to make resistance, a contrary Religion was urged on them, whereas we have ours still offered us; no, we hold not what ever cruelty can be suffered cause enough to make resistance, 'tis not the cause, 'tis the constitution of the government, reserving in its coordination a power of resistance, in order to its preservation: otherwise were this an *absolute Monarchy*, should the King alone, or (as it is) should King and Parliament enjoin us all to deny Christ and worship the Sun, we were (though never so able) not to make any resistance but by suffering; the cause cannot alter the case here, 'tis the constitution must doe it: and yet, if his Majesty might (in case of Religion) helpe the *Rochellers* to resist their King in an *absolute Monarchy*, why much more might not the Parliament in this.

The sixth *Section* containes in substance three bitter invectives, sharpened I believe at the *Philistines* forge (the Doctor speaks of) for they despise the host of *Israël*.

The first calls the *Parliament*, a prevailing faction of a few. Is the representative Body of the Kingdome become but a prevailing faction? and how a Faction, if prevailing, though never so few, 'tis the maior part prevails, and so prevailing is the body, and can the Body make a Faction or Schisme from it selfe; if many of the Members with-draw, the more fault theirs, and shame too, to desert their trust: The Law and reason both tels us, That no man can take advantage by his owne default; so, all Parliaments and their Acts too, how easily might they be eluded? Certainly what is punishable is not pleadable, and *Crompton* (we see) cites the Bishop of *Wintons* case herein, who was arraigned in the Kings Bench, for that he came to the Parliament and departed without its licence.

Jur: of Courts
tol: 5. b.

The second invective is against the Parliaments hostile manner of proceeding in this their warre, His Majesty hath alwayes been (he sayes) upon the defensive part, questionlesse he is upon the offensive part by whom the offence comes, and that is that part in this coordinate government (that in case of such danger) refuses to doe his part, and resists the other from making supply: Surely the Doctors *Almanacke* (he speaks of) is an *Erra Pater*, for untill his Majesty had hostily entered the *Commons House*, with the attendance of his listed Souldie-

* Ordinarily
it is unles that
Act might pos-
sibly prevent it

ry ; they had scarce so much as a *voluntary guard*, and when they had one, 'twas not a guard on the *Members safeties*, 'twas rather on the *safety* of their late *Act* against *dissolution*, for* if at any time that House should have bin by force but kept one halfe day out of the place, where they had the day before appointed their next meeting, it had bin utterly *dissolved* : since then, the manning of *Hull*, and (after his Majesty had in the name of a guard, raised an Army to take it from the *Parliaments trust*) Sir *John Horthams* humble declining His Majesties entrance, but untill he should acquaint the Parliament in discharge of his *trust* ; what *Hostilities* were these ? The *settling the Militia by Ordinance* (His Majesty having refused it) in order to his and his Kingdomes defence (where note that the *Statute* of 11. *Henry 7. c. 1.* which charges all the Kings Subjects with his and the Lands defence, makes the rule of *that* defence to be according to the *duty of their Allegiance*, and that binds them to doe their duty whether accepted or no, and what *hostility* in all this ? since then, look down through the sieges of *Warwick*, *Coventry*, *Banbury*, *Walls*, *Manchester*, &c. even to *Keynton*, and what other resistance then *defensive* has the *Parliament* made ? and even there too his Majesty was but followed with a *Petition* (as *Scotland* had successfully done before) untill he was pleased to turn back upon them and give fire.

The third investive in this Section, is against its distrust of the reality of his Majesties *Protestations*, to continue *Religion*, *Laws* and *Liberties*, &c. To this, all that I have to say is, that be his *Majesties Protestations* never so reall and hearty, yet if there be in the *Parliaments* power a surer bottom to set these on, then the most reall purposes and protestations of a mortall man they discharge not their *trust* if they do it not : I know his Majesty (besides his constant and fixed goodnes of disposition) hath more and stronger ties upon him of *honour*, *hazard*, *trust*, then any els wheever; but all men must follow their principles, which in morals will and must vary with the last results of their judgements, and even those in creatures that know not by *intelligence* as Angels, but *discourse* as men, are things that upon further light must vary too ; the Law as we observed before is *mens sine appetitu* a better bottom for government to stand on, then the most constant Resolution or Protestation that ever meer man made, besides his Majesty dispences but by his Ministers, and then his *Protestations* rise to no more then this, *That he will governe us by such Laws and Cannons as his Judges and Bishops will by their interpretations fit us with.*

The 7 Section contains little more than a setting on the same charges with more bitterness, calling the *Parliaments Declarations* wicked Pamphlets, false, odious, scandalous imputations of this giddy age, &c. wherein both his virulence and impotence at once appears ; in that (he sayes) he will with Michael use no rayling accusations on the *Parliament*, and yet uses the most rayling and accusing one of all other, in likening them as he doth (therein) to the *Devill* the *Arch-rayler* and *accuser* both ; if he looke but a little further then the place he above urged in the *Apostle Peter*, he will tell them who they be that are thus *presump-*
tuous,

known and do *speake evill of Dignities*, and that *Michael did not so*.

For these empty feares and jealousies (as hee calls them) grounded on reports of forraigne power and preparations, the *Queenes Religion*, the great resort of *Papists to his Majesty*, His intercepting Irelands reliefe, &c. I have no more to say to these, then, that for the first; *abundans cautela non nocet*, State jealousie it has no right-hand error, none on the *excesso* side, its *extention* intends it, the more the better, an *Enemy* is met any where better then within our owne doores; Besides, if forraigne *States* have (possibly) with their engagements altered their designs, may we condemne the *vigilancy* of ours that (may be) was it that diverted those designs from us; nor are those *clouds* yet so farre blowne over us (as the Doctor would have it) for ought I see they grow *blacker* still.

1 Pct. 2. 10.

2. For the *Queenes Religion* it was as *well knowne* (as he speaks) before as now, but (may be) not so justly feared, as since we heare of so many *Priests* and *Jesuites* let out of prisons at back doors, of *Popes Nuncio's* and orders of *Friars* in *England*, especially now, when we see a *Popish Army* raised in their defence, when the enemies of our *State* have armed the enemies of our Church against both.

3. For the resort of *Papists* to his *Majesty*, whom the Doctor calls such *good Subjects*, so much better then the *Parliament*: all that I will say is, that if such are become the *Kings better Subjects*, God help him, he hath but a few *good* ones left; what? such as profess to owe a greater *subjection* to a forraigne *State*, and a *State*, not only utterly crossie centered in its interest of *State*, but meritoriously malicious by its very *Articles of Faith* to this of his *Majesties*, these *better Subjects* than those of his great *Councell*? How will *Rome* ring of this suffrage from the mouth of a *Protestant Doctor*? And yet why not the best *Subjects*, if we may judge by their usage? for of all sorts of men we heare not one of them by his *Majesties Army* plundered yet; sure there is some *Covenant*, these *Egyptians* doors are *sprinkled* with some what questionless, they enjoy this *Passover* so solemnly.

Lastly, for the interception of Irelands reliefe, if all the rest that was taken, was the *Kings*, because the *Kingdoms* (at least the poor *Carriers horses* were his own proper goods: *Necessity* is the excuse of ail, but if in a mans choice, it is no necessity at all, the definition of it is, *quod aliter se habere non potest*, (i.) that can no otherwise be; well, *necessity* is pleaded yet, but on both sides, I pray God it be not shortly on *backs* and *bellies* too. I shall only add this short *Prayer*, and with my very soule I speak it, *God blesse the King and send us peace*, and if it must not be untill one side have prevailed, I pray God it may be that side that loves the *King* best.

A Postscript, Or shorter Answer.

IF any man list not to read all this that hath bin here say'd in Answer to the Doctors Treatise, and yet would faine be satisfied, these few ensuing lines of the Doctors own discourse, may serve his turne, not only to Answer what he hath said, but what can be said in this Subject.

The King is in this Monarchy to governe by Law, not arbitrarily, 'tis in his government by Law then, not his arbitrary or Personall commands that he is the highest power, a Subject then may lawfully resist his personall commands and yet resist no highest power. Next

The King in judging what is Law, is to see with others eyes tho' of different judgement from him (so the Doctor) but those eyes of highest judgement must needs be the eyes of his highest Councell, he then that resists the judgement of this highest Councell, resists the Law, and so the highest Power; it must be the same Law that makes the highest power, that makes us either Subjects in obeying it, or Rebels in resisting it.

FINIS.
